IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 15260 of 2007(N)

PETITIONER:

M/S.ESSAR TELECOM INFRASTRUCTURE (P)LTD.
41/256, C-19, SECOND FLOOR, MATHER SQUARE,
OPP.NORTH RAILWAY STATION, COCHIN-682 018,
REPRESENTED BY EXECUTIVE (SITE ACQUISITIONS &
ADMINISTRATION) MR.RAHUL DAS.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:
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1. THE CIRCLE INSPECTOR OF POLICE,
VATAKARA POLICE STATION, KOZHIKODE DISTRICT.

2. THE SUB INSPECTOR OF POLICE,
VATAKARA POLICE STATION, KOZHIKODE DISTRICT.

3. SRI.R.P. RAJEEV, VENGATHODI HOUSE,
MEMUNDA P.O., VATAKRA, KOZHIKODE DISTRICT.

4. SRI.SASI, MARANCHERY HOUSE,
MEMUNDA P.O., VATAKARA,
KOZHIKODE DISTRICT.

BY ADV. SRI.C.VALSALAN
SRI.K.RAKESH ROSHAN
SMT.THUSHARA.V
BY GOVT. PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO.15260/07

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF BUILDING PERMIT NO.25/2007-08 DATED 4.5.07 ISSUED BY SECRETARY, VILLIAPPALLY GRAMA PANCHAYAT TO PETITIONER.

EXT.P2: COPY OF COMPLAINT DATED 12.5.07 SUBMITTED BY PETITIONER BEFORE 1ST RESPONDENT.

EXT.P3: COPY OF ORDER IN WP(C) NO.7324/07 DT. 5.3.07 OF THIS COURT.

/ TRUE COPY /

P.S. TO JUDGE.

P.R.RAMACHANDRA MENON, J

W.P. (C) NO. 15260 of 2007

Dated this the 8th day of October, 2012

JUDGMENT

The issue involved this case is with regard to the proper 'uniform' to be worn by the students of the first respondent school, which consists of different classes in the Upper Primary, High School, Higher Secondary and Vocational Higher Secondary sectors. Case of the petitioner is that, with ulterior motives, particularly at the instance of the President of the Parent-Teachers' Association and somebody else, the 'uniform' in the school is being sought to be changed frequently, in spite of the fact that more than 80% of the students hail from poor strata of the society, being the children of farmers and agricultural workers, who find it extremely difficult to make both ends meet.

2. The learned counsel of the petitioner submits with reference to the pleadings and materials produced, that there was a wide hue and cry with regard to the proposal to have change in uniform every year, which was not supported by the general body of the PTA. It was in the said circumstances, that the executive committee of the PTA, who allegedly vested with interest to

change the uniform, caused to implement the change as discernible from Exts.P1 and P2. The change in uniform will cause unconscionable burden upon the shoulders of the students and their parents concerned, as evident from Ext.P1 itself, as put forth by the Headmaster, leading to the decision that the new uniform be implemented on Mondays and Thursdays and that the students could wear the existing uniform on the other days, as stated to be followed for the Academic year 2012-2013. The resolution 'No:8' in Ext.P2 reveals that the changed uniform was decided to be supplied through the 'PTA'. According to the petitioner, a near relative of the President of the 'PTA' is having a textile shop and the uniform is sought to be sold through the said outlet, realising exorbitant prices as against the lesser market rate for the very same item. It was in the said circumstances, that the petitioner was constrained to approach various authorities, also trying to get necessary information invoking the machinery under the RTI Act and has approached this Court. It is stated that the petitioner has also preferred Ext. P4 complaint before the State Government seeking for an enquiry

against all concerned.

3. When the matter came up for consideration before this Court on 19/7/2012, an interim order was passed directing the first respondent to permit the students of the Government Manavedhan Higher Secondary School to wear the uniform presently used by them, for the time being. The first respondent has filed a counter affidavit seeking to explain the facts and circumstances and rebutting the version of the petitioner that there is change in uniform every year. It is stated that, the uniform which is existing in the 'High School' section was there for the past 5 years and same is the position with regard to the Primary Section as well. The students admitted to 'Plus One' are permitted to wear the same uniform for the second year as well and the change in uniform <u>every year</u> in respect of the 'Plus One' course and also the first year of the Vocational Higher Secondary School is intended to identify the students easily; in view of the 4 different sectors of students pursuing their studies within the same compound (coming to a total of about 3000 students) and with intent to maintain proper discipline in the educational

institution.

4. The averments and allegations with regard to the malafide intent at the instance of the President of PTA are disputed, stating that the change in uniform was requested to be implemented by the 'PTA' itself as borne by Exts.P1/P2 resolution of the 'executive committee'. It is also stated, that no undue burden is sought to be mulcted upon the shoulders of the students or their parents concerned, as the Government is taking care of said situation providing necessary funds, which is kept undisbursed in view of the pendency of above proceedings. The learned Government pleader also submits that the, but for the petitioner, nobody else has come forward, challenging the decision of the 'PTA' to change the uniforms and the motive of the petitioner behind filling the present writ petition is something else. Because of the fluid state of affairs, there is a heavy mixing up of uniforms resulting in total indiscipline, which is to be rectified at the earliest, submits the learned Government Pleader.

5. The learned counsel for the petitioner submits that the

students as well as their parents were not given proper idea as to the course and events and many of them were virtually compelled to yield to the unconscionable demand in changing the uniform. Reliance is sought to be placed on Ext.P5 complaint/ petition preferred by some other parents to the first respondent on 14/9/2012 in this regard. The grievance projected by the petitioner is sought to be substantiated also with reference to Ext.P6 quotation showing the lesser market rate and Ext.P7 complaint dated 24/5/2012 preferred before the second respondent.

6. Necessity to wear uniform by the students is part of the discipline and it is for the first respondent to ensure that proper discipline is maintained in the educational institution headed by him. The fact that the uniform in respect of the 'Primary' and High School sectors, has not been changed for the past 5 years, as put forth in the counter affidavit, has not been rebutted from the part of the petitioner. Such a proposal came to be accepted as per the relevant resolution taken by the 'PTA' which is sought to be implemented and the Government has

reportedly ordered to release necessary funds in this regard to the needy and eligible sector, who are mostly poor and who can't afford to have it otherwise. That apart, grievance of the petitioner is in respect of his daughter who is pursuing her studies in the 11th standard and there is no case for the petitioner that he is representing the 'PTA' in a legally acceptable manner. As such, the petitioner can't be held as aggrieved with regard to the change in uniform sought to be implemented for the 'Primary' as well as the 'High School' section.

7. But coming to the Higher Secondary Section, regarding the necessity to change the uniform "every year" (though the first year students are permitted to wear the same set of uniform for the second year as well) this Court finds it difficult to glibly swallow the version put forth by the learned Government Pleader on behalf of the 1st respondent. What is the necessity to change the uniform "every year" for the first year of the Higher Secondary School and for the Vocational Higher Secondary School, and to what extent that will adversely affect the concerned students and their parents, is a matter to be

looked into by the educational authorities, who are at the helm of the affairs. This is more so, in view of the specific complaints preferred by the petitioner, as to the course and action being pursued in relation to the uniform, as projected in Exts.P4 and P7.

8. In the said circumstance, the second respondent is directed to consider the grievance put forwarded by the petitioner in Exts.P4 and P7, mainly with regard to the Higher Secondary/ Vocational Higher Secondary Sectors in the first respondent's school and to arrive at finding, whether any such change in uniform is warranted every year to identify the students or to maintain discipline. Merely for the reason that funds are being provided by the Govt. to the poor/eligible category by itself shall not be justification as if of course is public money and care has to be taken to see that it is properly utilized. It is better to evolve some norms in this regard, to be made applicable to all the Schools in the Govt./Aided Sector. Appropriate orders in this regard shall be passed at the earliest, at any rate, within 2 months from the date of receipt of a copy of this judgment.

9. The interim order already passed by this Court with regard to the change in uniforms on 19/7/2012 is vacated in respect of the 'Primary' and 'High School' section, while the same will continue till a decision is taken by 2nd respondent as mentioned herein before.

The writ petition is disposed of as above.

P.R.RAMACHANDRA MENON,
JUDGE

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